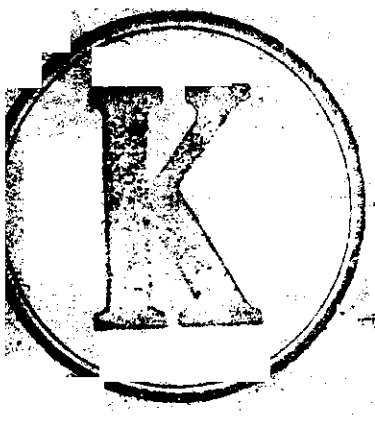

1952.

File No. Animal Diseases II/52
Legal Deptt (N)

B BRANCH

Subject:— Notifications under the Bombay Animal Contagious Diseases (control) Act 1948

P3/E

File No. Animal Diseases II/52 (N) 588-B

Gen. 194 e.

Legal Department.

Paragraph 4 of A. & F.D. note:- Sub-section (2) of section 2 of the Bombay Animal Contagious Diseases (Control) Act, 1948 (Bom. LIX of 1948), provides that the State Government may, from time to time, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in such area in respect of such scheduled disease and on such date as may be specified in the notification and may by similar notification direct that such provisions shall cease to be in force in any area from such date as may be specified therein. It is clear from this provisions that section 4 has to be brought into force by a notification under section 2(2) of the Act, before any notification under that section is issued by the State Government. As no such notification has so far been issued generally, the A. & F.D., Notifications No. 3552(bo-D and No. 3552(c)-D dated the 10th October 1951 at pages 225 and 227 respectively of A. & F.D. file No. 3552 have no legal force. The statement made in the A. & F.D. note at 'A' on page 5 ante that the said two notifications were issued in consultation with the Legal Department is not correct. The Legal Department supplied the draft of the notifications which were intended to be issued under section 4 of the Act, bu the R.L.A. in para 3 of his opinion No. 8309, dated the 17th June 1950, has specifically advised as follows:-

> "Government cannot delgate to the Director its power under section 2(2) to bring into force the remaining provisions of the Act when necessary. This will have to be done by Government itself by issuing a notification which shall specify the provisions of the Act, which it is intended should come into force, the

the area in which they should come into force

and the scheduled diseases in respect of which ~~xxxxxxxxx~~ they should come into force".

It was contemplated that Government will issue first a notification under section 2(2) of the Act as at page 97 of A. 7 F.D. file No. 3552.

2. As regards the proposal whether it would be necessary to bring into force all the sections of the Act into whole of the State of Bombay in respect of all the Scheduled diseases, it will be observed that from the scheme of the Act it appears that the notification beinging into force the relevant provisions of the Act should issue as and when the occasion for such notification arises. If the desceaes specified in the schedule are not prevelent in any locality there is no propriety in bringing the provisions of the Act into force in such locality. From the provisions made at the end of sub-section (2) of section 2, it appears that when the necessity for keeping into force the whole or any of the provisions of the Act no longer exists the Government has to declare that the said provisions of the Act shall cease to be in force. In the particular case under consideration ~~xxxxxxxxxxxxxxx~~ the object is to prohibit holding of a cattle market or cattle fair in Almel village of Sindgi Taluka of Bijapur District for a period of one month. If so, the only relevant notifications to be issued immediately will be those referred to at pages 11, 13 and 15 of the correspondence section. However, in place of the notification at page 15 (Correspondence section) the accompanying draft notification may be substituted.

Sd/-

Additional Deputy Secretary to Government.

U.R. to A. & F.D., No. 11036, dated the 3rd July 1952.

EVY. 2/7.

Legal Department.

The proposed of the Agricultural and Forests Department is to prohibit the holding of a cattle market at Almel of Sindgi Taluka of Bijapur District for a period of one month from the date of the notification. With this end in view the A. & F.D. proposes to issue a notification under section 2(2) and clause (b) of sub-section (1) of section 6 of the Bombay Animal contagious Diseases (Control) Act, 1948, prohibiting the holding of a cattle market at Almel for a period of one month. The draft notification is not in order for the following reasons:-

2. As pointed out in R.L.A.'s opinion No. 12604, dated the 6th August 1951, it is necessary first to issue a notification under section 2(2) of the Act brining all the sections of the Act, or if it is intended to be a temporary measure, section 6(1) and other relevant sections - e.g. sections 3, 4, 5, 27, 31 and 32 - into force in the village of Almel of Sindgi taluka. Simultaneously, or thereafter two notifications - one under section 4 appointing a Veterinary Surgeon for the purposes of the Act (see section 31) and another under section 6(1) prohibiting the holding of a cattle market at Almel may be issued. The notification under sections 2(2) and 4(1) should be based on the lines of the draft supplied under the aforesaid opinion No. 12604, dated the 6th August 1951.

3. In place of the A. & F.D. draft at p. 9 under section 6 of the Act, a revised draft is sent herewith. It would be preferable to issue a general notification in terms of clause (b) of sub-section (1) of section 6 of the Act rather than prohibiting the holding of a cattle market only.

Sd/-
Additional Deputy Secretary to Govt.

U.R. to A. & F.D., No. 10303, dated the 20th June 1952.